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09/990,359	11/23/2001	Miraj Mostafa	061462-0230	2084

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EXAMINER	
ABEL JALIL, NEVEEN	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/990,359	MOSTAFA, MIRAJ	
	Examiner	Art Unit	
	Neveen Abel-Jalil	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 August 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16 and 19-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16 and 19-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Remarks

1. In response to applicant's After-Final submission filed on 8/6/2007, the finality of the previous office action is hereby withdrawn; a new non-final office action is enclosed.

Claims 1-16, and 19-23 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 9-16, and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Kung et al. (U.S. Patent No. 6,826,173 B1)-previously cited.

As to claims 1, 11, 12, 13, and 23, Kung et al. discloses a method in a network entity, a computer program for controlling a network entity stored therein, the program when executed causing the network to perform, a communication system, comprising:

at least one recipient (See Kung et al. Figure 1, shows 102, labeled home, and 142, labeled terminals);

a network entity (See Kung et al. Figure 2, content server, connected in a network), the network entity comprising:

receiving media content from a sending entity and addressed to at least one recipient, the media content related to multimedia messaging (See Kung et al. column 13, lines 44-57, and see Kung et al. column 35, lines 64-67, and see Kung et al. column 37, lines 34-44); and

a processor which accesses a database comprising recipient data describing at least one of multimedia reception capabilities and reception preferences for at least one recipient (See Kung et al. column 35, lines 61-67, and see Kung et al. column 37, lines 65-67, and Kung et al. column 38, lines 1-11, and see Kung et al. column 38, lines 35-51);

a multimedia messaging service (MMS) relay which forms, in accordance with said at least one of multimedia reception capabilities and reception preferences (See Kung et al. column 13, lines 44-57, and see Kung et al. column 35, lines 64-67, and see Kung et al. column 37, lines 34-44), a notification message containing information that said media content is available to be streamed to said at least one addressed recipient (See Kung et al. column 35, lines 13-34); and

wherein the MMS relay transmits the notification message to said at least one addressed recipient (See Kung et al. column 13, lines 44-57, and see Kung et al. column 35, lines 64-67, and see Kung et al. column 37, lines 34-44).

As to claim 2, Kung et al. discloses further comprising the steps of:

receiving the media content in a multimedia messaging server (See Kung et al. column 13, lines 44-60); and

providing the at least one addressed recipient with the media content via the network entity (See Kung et al. column 6, lines 14-27);

wherein the network entity is a multimedia messaging relay (See Kung et al. column 13, lines 44-60).

As to claim 3, Kung et al. discloses wherein a streaming session is established and at least some of the media content is streamed to said at least one recipient (See Kung et al column 29, lines 1-19).

As to claim 4, Kung et al. discloses wherein said establishing of a streamed session is preceded by transmitting the notification message to said at least one addressed recipient (See Kung et al column 35, lines 42-57).

As to claims 5, and 14, Kung et al discloses wherein the media content comprises a set of different types of components and each component is formatted in one or more formats (See Kung et al. column 6, lines 30-43).

As to claim 6, Kung et al. discloses wherein the method further comprises the following steps before said outputting of the media content:

checking the format of at least one component of the received media content (See Kung et al. column 11, lines 10-22);

determining by using the recipient data whether the format is appropriate for said at least one addressed recipient (See Kung et al. column 13, lines 44-60); and

responsive to determining that the format is not appropriate for the said at least one addressed recipient, translating the component into a format appropriate for said at least one addressed recipient (See Kung et al. column 13, lines 44-60, and Kung et al. Figure 8c).

As to claim 7, Kung et al. discloses wherein said notification message provides a minimum amount of information necessary for said at least one addressed recipient to establish a streaming session with the said network entity (See Kung et al. column 23, lines 28-65).

As to claim 9, Kung et al. discloses wherein said sending entity is **chosen from a group** consisting of:

a media storing entity of a first telecommunication network, a media storing entity of a second telecommunication network, a media storage in an external data transmission network, and a terminal of the first telecommunication network (See Kung et al. column 18, lines 26-44).

As to claim 10, Kung et al. discloses wherein the sending entity is selected from the **group consisting** from a media storing entity of a first telecommunications network and a terminal of the first telecommunication network, wherein the first telecommunication network possesses given properties, and wherein the method further comprises transmitting the notification message to said at least one addressed recipient via a first telecommunication network and forming said notification message taking into account the properties of the first telecommunication network (See Kung et al. column 7, lines 49-67, also see Kung et al. column 17, lines 4-14).

As to claim 15, Kung et al. discloses wherein the first telecommunication network posses multimedia capabilities, traffic condition, and processing resources, and wherein said properties of the first telecommunications network (See Kung et al. column 18, lines 38-64) contain at least one or more of the following:

the first telecommunications network's multimedia capabilities (See Kung et al. column 18, lines 38-64), the first telecommunication network's traffic condition, and the availability of processing resources in the first telecommunication network.

As to claim 16, Kung et al. discloses wherein the receiving of the media content form a sending entity includes forwarding the media content, via said network entity to a multimedia messaging server corresponding to a communication system of said network entity (See Kung et al. column 13, lines 44-60).

As to claims 19-22, Kung et al. discloses wherein the forming of the notification message and the outputting of the notification message are performed locally within a multimedia messaging service environment (See Kung et al. column 23, lines 29-36).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kung et al. (U.S. Patent No. 6,826,173 B1) in view of Ehrlich et al. (U.S. Patent No. 6,546,427 B1)-previously cited.

As to clam 8, Kung et al. does not teach wherein the network entity communicates with the at least one addressed recipient over a radio communication network.

Ehrlich et al. teaches wherein the network entity communicates with the at least one addressed recipient over a radio communication network (See Ehrlich et al. Figure 1, 12, radio station, 16, Internet, wherein the user is accessing radio services through the Internet, also see Ehrlich et al. column 3, lines 18-31).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to communication with at least one addressed recipient over a radio communication network because it constitute one example of various modes of communication networks currently avaible in the art and provides for better access to resources around the globe (See Ehrlich et al. column 1, lines 52-57).

Alternatively the claims remain rejected under:

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-16, and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Makipaa et al. (U.S. Patent No. 6,556,217 B1)-previously cited.

As to claims 1, 11, 12, and 13, Makipaa et al. discloses a method in a network entity, a computer program for controlling a network entity stored therein, the program when executed causing the network to perform, a communication system, comprising:

at least one recipient (See Makipaa et al. Figure 1, 30, user terminal);

a network entity (See Makipaa et al. Figure 1, 20, content server, connected in a network), the network entity comprising:

receiving media content from a sending entity and addressed to at least one recipient (See Makipaa et al. Figure 2, 10, shows content generators, 30, shows end user receiving such content), the media content related to multimedia messaging (See Makipaa et al. wherein multimedia content delivered either by email or over a WAP device in column 2, lines 4-7, background of the invention, as well as video and audio streaming in Figure 2, 70); and

a processor which accesses a database comprising recipient data describing at least one of multimedia reception capabilities and reception preferences for at least one recipient (See Makipaa et al. Figure 2, 20, wherein a database and other modules are shown that store user profiles, and terminal capabilities);

a multimedia messaging service (MMS) relay which forms (See Makipaa et al. wherein multimedia content delivered either by email or over a WAP device in column 2, lines 4-7, background of the invention, as well as video and audio streaming in Figure 2, 70), in accordance with said at least one of multimedia reception capabilities and reception preferences, a notification message containing information that said media content is available to be streamed to said at least one addressed recipient (See Makipaa et al. column 5, lines 40-53, and see Makipaa et al. column 6, lines 1-13); and

wherein the MMS relay transmits the notification message to said at least one addressed recipient (See Makipaa et al. column 5, lines 40-53).

As to claim 2, Makipaa et al. discloses further comprising the steps of:

receiving the media content in a multimedia messaging server (See Makipaa et al. column 5, lines 19-22); and

providing the at least one addressed recipient with the media content via the network entity (See Makipaa et al. column 6, lines 14-27);

wherein the network entity is a multimedia messaging relay (See Makipaa et al. column 5, lines 22-38, also see Makipaa et al. column 4, lines 43-45, wherein HTML-capable cellular phones are taught).

As to claim 3, Makipaa et al. discloses wherein a streaming session is

established and at least some of the media content is streamed to said at least one recipient (See Makipaa et al. column 6, lines 10-21).

As to claim 4, Makipaa et al. discloses wherein said establishing of a streamed session is preceded by transmitting the notification message to said at least one addressed recipient (See Makipaa et al. column 5, lines 48-53).

As to claims 5, and 14, Makipaa et al. discloses wherein the media content comprises a set of different types of components and each component is formatted in one or more formats (See Makipaa et al. column 5, lines 53-62).

As to claim 6, Makipaa et al. discloses wherein the method further comprises the following steps before said outputting of the media content:

checking the format of at least one component of the received media content (See Makipaa et al. column 5, lines 40-53);

determining by using the recipient data whether the format is appropriate for said at least one addressed recipient (See Makipaa et al. column 5, lines 40-53); and

responsive to determining that the format is not appropriate for the said at least one addressed recipient, translating the component into a format appropriate for said at least one addressed recipient (See Makipaa et al. column 5, lines 53-62).

As to claim 7, Makipaa et al. discloses wherein said notification message provides a minimum amount of information necessary for said at least one addressed recipient to establish a streaming session with the said network entity (See Makipaa et al. column 5, lines 40-53).

As to clam 8, Makipaa et al. discloses wherein the network entity communicates with the at least one addressed recipient over a radio communication network (See Makipaa et al. column 5, lines 35-38).

As to claim 9, Makipaa et al. discloses wherein said sending entity is **chosen from a group** consisting of:

a media storing entity of a first telecommunication network, a media storing entity of a second telecommunication network, a media storage in an external data transmission network, and a terminal of the first telecommunication network (See Makipaa et al. Figure 1, shows different sources of content providers).

As to claim 10, Makipaa et al. wherein the sending entity is selected from the **group consisting** from a media storing entity of a first telecommunications network and a terminal of the first telecommunication network, wherein the first telecommunication network possesses given properties, and wherein the method further comprises transmitting the notification message to said at least one addressed recipient via a first telecommunication network and forming said notification message taking into account the properties of the first telecommunication network (See Makipaa et al. Figure 1, shows different sources of content providers).

As to claim 15, Makipaa et al. discloses wherein the first telecommunication network posses multimedia capabilities, traffic condition, and processing resources, and wherein said properties of the first telecommunications network (See Makipaa et al. column 5, lines 28-48) contain **at least one** or more of the following:

the first telecommunications network's multimedia capabilities (See Makipaa et al. column 5, lines 28-48), the first telecommunication network's traffic condition, and the availability of processing resources in the first telecommunication network.

As to claim 16, Makipaa et al. discloses wherein the receiving of the media content form a sending entity includes forwarding the media content, via said network entity to a multimedia messaging server corresponding to a communication system of said network entity (See Makipaa et al. column 5, lines 28-48).

As to claims 19-22, Makipaa et al. discloses wherein the forming of the notification message and the outputting of the notification message are performed locally within a multimedia messaging service environment (See Makipaa et al. Figure 2, shows "multimedia messaging environment).

Response to Arguments

8. Applicant's arguments filed on May 29, 2007 have been fully considered but they are not persuasive.

Applicant's argument that Makipaa does not relate to "reception capabilities; instead it relates to only pagination of content based on the capabilities of a terminal" is acknowledged but not deemed persuasive

There's no detail or definition given in the claim as to what constitute or comprise the "reception capabilities" therefore it is broadly and generally interpreted to be any "terminal capabilities" including those of Makipaa et al. as taught in column 7, lines 51-67:

> The pagination and terminal adaptation module 90, discussed in further detail in reference to FIG. 5 ahead, paginates and formats the content based on the terminal type received in operation 160 and the user profile contained in the user and terminal profile 140.
> By operation 230, the pagination and terminal adaptation module 90 has access to the terminal profile 140 and therefore is aware of the terminal capabilities. These capabilities would include, but not limited to, screen size, bandwidth, color vs. black and white, media types supported by this terminal type (i.e., video/audio, animation, etc.) and input capabilities as will be discussed in further detail in reference to FIG. 6. The pagination and terminal adaptation module 90 then proceeds to operation 232 where the content is filtered and converted.

Furthermore, Applicant' specification only provides for various examples of format translation or encoding capabilities to read on the "reception capabilities" see specification page 9, lines 5-10 and specification page 26, lines 13-15; still no different from Makipaa's media type support (basically a determination is made to whether the subscriber's terminal support certain media types or not and format translation) discussed in column 7, lines 1-7.

Applicant's argument that Makipaa does not relate to "multimedia messaging" is acknowledged but not deemed persuasive in light of Applicant's own disclosure page 1, lines 26-29; wherein the definition given to "multimedia messaging" is:

> It should be appreciated that although the term "multimedia message" is used generally to describe an electronic message that contains more than one type of media content, in the context of the description provided in this application, the term extends to cover messages that contain only one media type.

Thus, no different from Makipaa's access to email message containing digital content see column 2, line 5, prior art, and column 5, lines 24-26:

This digital content information may include audio, video, HTML script, XML script or any other form of digital data.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5: 30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neveen Abel-Jalil
Primary Examiner
August 12, 2007